

REMARKS

Reconsideration and allowance are respectfully requested. The second claim numbered 8 and claims 9-12 have been amended. Claim 14 has been added. Claims 1-14 are pending.

The Examiner objected to the drawings for not showing item 21. The specification has been amended above to change item 21 to item 31. Thus, no drawing change is required.

The Examiner objected to the claims since there are two claims are numbered 8. The second claim numbered 8 and claims 9-12 have been renumbered as claims 9-13 to overcome the objection.

Claims 1, 2 and 8 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Harriman in view of well established teaching of the art. This rejection is respectfully traversed.

An evaluation of obviousness must be undertaken from the perspective of one of ordinary skill in the art addressing the same problems addressed by the applicant in arriving at the claimed invention. Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, 23 USPQ 416, 420 (Fed. Cir. 1986), cert. denied, 484 US 823 (1987). Thus, the claimed structures and methods cannot be divorced from the problems addressed by the inventor and the benefits resulting from the claimed invention. In re Newell, 13 USPQ2d 1248, 1250 (Fed. Cir. 1989).

Harriman is directed to an ATM switch employing ATM cells each having a Virtual Circuit (VC) identifier and a Virtual Path (VP) identifier, and is not within the field of the inventors' endeavor, namely providing layer 2 and above switching of data packets in a non-blocking network switch configured for switching data packets between subnetworks; further, Harriman is not reasonably pertinent to the particular problem with which the inventors were involved, namely, in layer 2 and above switching, to synchronize transfer of frame tags to a switch fabric with the transfer of data frame to a buffer memory (see page 2, lines 7-12 of the specification). Harriman provides no disclosure or suggestion of using a switch fabric configured for receiving a tag result and for performing a frame forwarding decision based on the tag result, and as such is non-analogous art. In re Wood, 202 USPQ 171, 174 (CCPA 1979). Attached for the

Examiner's convenience are documents that discuss ATM switches to place the teachings of Harriman in the proper context.

In any event, claim 1 recites generating a tag result corresponding to at least a portion of the data frame and synchronizing transfer of the tag result to a switch fabric. Harriman does not teach generating a tag result outside of the switch fabric 110. As shown FIG. 1 of Harriman, the ports 102 forward the cell to the switch fabric 110. The OTF 122 (considered by the Examiner as a tag result) of Harriman is provided within the switch fabric 110.

The broadest reasonable interpretation of a claim element cannot be inconsistent with the specification, which illustrates the claimed tag result 62 (see, e.g., Fig. 4). Hence, "claims are not to be read in a vacuum, and limitations therein are to be interpreted in light of the specification in giving them their 'broadest reasonable interpretation.'" MPEP § 2111.01 at 2100-37 (Rev. 1, Feb. 2000) (quoting In re Marosi, 218 USPQ 289, 292 (Fed. Cir. 1983)(emphasis in original)).

With regard to claim 8, Harriman does not disclose a switch port having port filter to generate a tag result, or a switch fabric configured for performing a frame forwarding decision based on the tag result and monitoring of the transfer of the data frame. Again, the broadest reasonable interpretation of a claim element cannot be inconsistent with the specification (see FIG. 3 of the specification). The port 102 of Harriman does not generate a tag result. Also, the switch fabric 110 of Harriman simply does not make any frame forwarding decisions but merely facilitates connection translation.

For these reasons, the rejection of independent claims 1 and 8 is improper and should be withdrawn.

The Examiner indicated that claims 3-7 and 9-13 contain allowable subject matter. Applicants see no need to rewrite these claims to be in independent format since, for the reasons advanced above, claims 1 and 8 are considered to be allowable over the prior art of record.

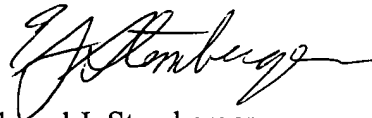
Claim 14 has been added and is considered to be allowable over the prior art of record.

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In view of the above, it is believed this application is and condition for allowance, and such a Notice is respectfully solicited.

To the extent necessary, Applicant petitions for an extension of time under 37 C.F.R. 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including any missing or insufficient fees under 37 C.F.R. 1.17(a), to Deposit Account No. 50-0687, under Order No. 95-332, and please credit any excess fees to such deposit account.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'E. Stemberger', with a long horizontal flourish extending to the right.

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